

Frank D. Mylar (5116)
MYLAR LAW, P.C.
2494 Bengal Blvd.
Salt Lake City, Utah 84121
Phone: (801) 858-0700
FAX: (801) 858-0701
Mylar-Law@comcast.net

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

PORTIA LOUDER,

Plaintiff,

v.

DAVIS COUNTY SHERIFF'S OFFICE, a
governmental entity of the State of Utah;
WEBER COUNTY SHERIFF'S OFFICE,
a governmental entity of the State of Utah and
DOES 1 through 10, individuals,

Defendants.

**DEFENDANTS' ANSWER TO
COMPLAINT AND JURY DEMAND**

Case No. 1:15-cv-00158-EJF

Magistrate Judge Evelyn J. Furse

DEFENDANTS, Davis County Sheriff's Office and Weber County Sheriff's Office through their attorney, Frank D. Mylar, deny all allegations not expressly and unequivocally admitted. The below paragraphs correspond with the numbered paragraphs of Plaintiff's Complaint. (Doc. No. 2).

1. Admit that this court has subject matter jurisdiction over constitutional claims.
2. Admit that this court has subject matter jurisdiction over constitutional claims.

3. Admit

4. Admit only that attorney fees may be awarded to a prevailing party under 42

U.S.C. § 1988.

5. Admit.

6. Admit.

7. Admit.

8. Deny.

9. Deny for lack of knowledge.

10. Deny for lack of knowledge.

11. Deny that a Notice of Claim was properly served. Lack knowledge of where and whether it was “filed.”

12. Deny for lack of knowledge.

13. Admit that Venue is proper.

14. Defendants repeat their answers from ¶¶ 1-13.

15. Admit that Plaintiff was a pretrial detainee prisoner at both Jails.

16. Deny. In addition, this is a purported legal statement and cannot be admitted or denied.

17. Deny.

18. Deny.

19. Deny.

20. Defendants repeat their answers from ¶¶ 1-19.

21. Admit Plaintiff was incarcerated at the Davis County Jail on a federal hold.
22. Deny. However, this is a legal statement and cannot be admitted or denied.
23. Deny.
24. Deny.
25. Defendants repeat their answers from ¶¶ 1-24.
26. Admit.
27. Deny. However, this is a legal statement and cannot be admitted or denied.
28. Deny.

REQUEST FOR RELIEF

1. Deny.
2. Deny.
3. Deny.
4. Deny.
5. Deny.

FIRST AFFIRMATIVE DEFENSE

Plaintiff failed to exhaust all of her available administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e, and for this reason Plaintiff's complaint must be dismissed. Specifically, both jails have a thorough grievance policy and practice to allow inmates to assert complaints and grievances of all kinds. In addition, any claim for emotional distress must be dismissed based upon the provisions of the PLRA.

SECOND AFFIRMATIVE DEFENSE

Plaintiff failed to allege sufficient facts to support allegations against a governmental entity as required for a cause of action under 42 U.S.C. § 1983.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims for damages are speculative, conclusory, and not supported by sufficient factual allegations and as such should be dismissed.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim for which relief can be granted in that she has failed to specify a specific violation of federal law that is cognizable under 42 U.S.C. § 1983.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim against a party which can be sued. Weber County Sheriff's Department and Davis County Sheriff's Department are not legal entities subject to suit under 42 U.S.C. § 1983.

WHEREFORE: All Plaintiff's claims should be dismissed and Plaintiff should be ordered to pay Defendants' attorney fees and costs under 42.U.S.C. § 1988.

Dated this 8th day of April, 2016.

/s/ *Frank D. Mylar*

Frank D. Mylar
MYLAR LAW, P.C.
Attorney for County Defendants